

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LEXINGTON INSURANCE COMPANY,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 02-CV-4435
	:	
v.	:	
	:	
DAVID FORREST, et al.,	:	(Hon. Anita B Brody)
	:	
Defendants.	:	

SUBSTITUTION OF AFFIDAVIT

TO THE CLERK:

Kindly file of record the attached original, signed Affidavit of Martin Fink in place of the facsimile copy of the Affidavit that was included in Martin Fink's Motion to Dismiss Plaintiff Lexington Insurance Company's Second Amended and Supplemental Complaint or, Alternatively, To Stay All Proceedings as to Fink or, Alternatively, To Sever Fink as a Defendant From the Litigation.

ECKERT SEAMANS
CHERIN & MELLOTT, LLC

By: _____

Neil G. Epstein
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Attorneys for Defendant Martin Fink

CERTIFICATE OF SERVICE

I, Neil G. Epstein, hereby certify that on July 27, 2004, one true and correct copy of the foregoing Substitution of Affidavit was served via United States First-Class Mail, postage prepaid, upon the following:

Edward P. Krugman, Esquire
Cahill Gordon & Reindel
80 Pine Street
New York, NY 10005
Attorney for Plaintiff Lexington Insurance Company

Glenn F. Rosenblum, Esquire
Montgomery, McCracken, Walker
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123 South Broad Street
Philadelphia, PA 19109
Attorney for Plaintiff Lexington Insurance Company

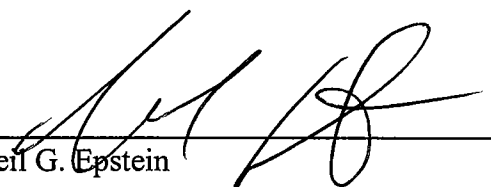
Edward M. Dunham, Jr., Esquire
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Attorney for Defendant David Forrest

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Attorney for Defendant New Beginnings Enterprises LLC

MO469112



Neil G. Epstein

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LExINGTON INSURANCE COMPANY,

v.

CIVIL ACTION

Plaintiff,

NO. 02-CV-4435

DAVID FORREST, et al., (Hon. Anita B Brody)
Defendants.

AFFIDAVIT

1, Martin Fink, state and verify that:

1. I am a defendant in this action.
2. In early 2001, I was approached by The New Hampshire Insurance Company, Lexington Insurance Company, and American International Group, Inc. (collectively "Lexington"), through their legal counsel, Mr. Edward P. Krugman, with a proposal that if I provided information to Lexington concerning any and all aspects of my involvement with and knowledge of insurance-backed film financing transactions that Lexington would agree to waive any and all claims, pending or future, against me and Complete Film Company, relating to the insurance-backed film financing transactions.
3. After lengthy negotiations concerning that proposal, a written agreement was reached between me on the one hand and Lexington on the other, concerning the scope of my cooperation in providing certain information and documents. A true and correct copy of that agreement, dated November 2, 2001 ("Agreement") is


attached to the pending motion as Exhibit "B".

4. I signed that Agreement on or about November 7, 2001, and my signature appears on page 4 of that Agreement. I also witnessed my legal counsel, Mr. Sanford L. Michelman, sign the Agreement in my presence on or about November 7, 2004.
5. Since I executed the Agreement I have submitted to numerous interviews at the request of Lexington's legal counsel, including Mr. Edward Krugman. At each of those interviews I provided detailed information concerning a broad range of topics concerning insurance-backed film financing transactions, and in particular, information related to the financing arrangements, development and/or distribution of films that are the subject of the claims alleged against me in the Complaint, and the relationship and associations by and between Flashpoint, New Beginnings, Prosperity Pictures, David Forrest and Beau Rogers. As requested, I also provided and/or made available to Lexington's counsel various financial, banking and tax records related to the above matters, including approximately 100 boxes of files on or about December 6, 2001, which are, to my knowledge, still in Lexington's possession.
6. During each and every of those interviews the only persons permitted in the interview room with me were my legal counsel, and legal counsel for Lexington.
7. To my knowledge the interviews were not tape recorded; nor were they stenographically recorded.
8. At all times during the interviews I gave honest, truthful and candid answers to all questions asked by Lexington's counsel, and I provided true and accurate records as requested by Lexington's counsel.

9. I do not believe that Lexington's counsel has given me a good faith opportunity to cure any alleged default or breach of the Agreement, nor do I believe that Lexington's counsel has acted in good faith in determining that I did not provide candid, honest and truthful statements in the interviews and production of documents.
10. To my knowledge I was the only witness that was cooperating with Lexington concerning insurance-backed film financing transactions as it relates to the claims alleged against me in the complaint.

The foregoing is true and correct based on my personal knowledge and recollection.

July 17, 2004.



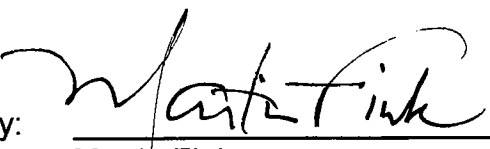
Martin Fink

MO467411v2

VERIFICATION

I, Martin Fink, hereby verify and affirm that under penalty of perjury that the foregoing is true and correct pursuant to 28 U.S.C. § 1746.

Executed on: July 1, 2004

By: 

Martin Fink